

GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT

Suits – Roads & Buildings Department – Writ Petition No.15214 of 2007 filed by the Government against the orders of APAT in OA No.3547/2002, dt.31.03.2006 filed by Sri Md.Haneef, SE (R&B) retired – Dismissed – Implementation of orders of APAT – Further action dropped – Orders – Issued.

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TRANSPORT, ROADS & BUILDINGS (VIG.I) DEPARTMENT

G.O.Rt.No. 120

Dated: 20.01.2009.

Read the following:-

- 1) G.O.Ms.No.88, TR&B Department, dated 25.04.1998.
- 2) OA No.3547/2002 filed by Sri Md.Haneef, SE (R&B) retired.
- 3) From the APAT, orders in OA No.3547/2002 filed Sri Md. Haneef, dated 31.03.2006.
- 4) WP No.15214/2007 filed by the Government.
- 5) From the Hon'ble High Court, orders in WP No.15214/2007 filed by Government dated 24.06.2008.

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O R D E R:-

The Government, in the G.O. first read above, after conducting a departmental enquiry and differing with the findings of the Enquiry Officer, issued orders imposing the punishment of 40% cut in pension permanently on Sri Md.Haneef, SE (R&B) now retired, on certain irregularities.

2) Sri Md.Haneef filed OA No.3547/2002 before the APAT and the Hon'ble APAT in its orders dated 31.03.2006 set aside the above said punishment. The Government have filed Writ Petition before Hon'ble High Court against the above said orders of APAT. The Hon'ble High Court disposed of the Writ Petition No.15214/2007, on 24.06.2008 at the admission stage and holding that,-

“ The issue – whether framing of charges by the disciplinary authority is a mandatory requirement under Rule 20 of the APCS (CC&A) Rules, 1991 – was elaborately dealt with by the Tribunal. Following the judgment of a Full Bench of High Court, it was held that framing of charges by the disciplinary authority, is a mandatory requirement as per the said Rule and the same was not complied with, in the case. It was also held that the disciplinary authority in respect of the 1<sup>st</sup> respondent herein at the relevant time was the Govt. of AP, but the charges were framed by the ENC. Therefore, the contention of the petitioner that the Govt. issued instructions to the ENC to conduct enquiry and, as such, the charges framed and the enquiry conducted by him are valid, cannot be accepted, since as per Rule 20 of the said Rules, the disciplinary authority (Govt.) has to frame the charges and conduct the enquiry. The Tribunal rightly held that all proceedings in pursuance of the charges framed wrongly and illegally by the ENC and not framed by the disciplinary authority, including GO Ms No.88, dt.25.4.1998 and the Memo. dt.20.12.2001 are illegal and liable to be set aside and thus set aside the same.

The Tribunal also recorded a finding that even remotely, the Government has not sustained any financial loss due to the

irregularities said to have been committed by the 1<sup>st</sup> respondent. The charges mention the irregularities said to have been committed by the 1<sup>st</sup> respondent and about his arrogant behaviour and do not, at all, mention about the financial loss sustained by the Govt. Therefore, the cut of 40% permanently, from the pension payable to the 1<sup>st</sup> respondent, is contrary to law and violative of Rule 9(1) of APRP Rules, 1980 and hence the Go Ms No.88, dt.25.4.1998 and Memo. dt.20.12.2001 were rightly set aside and the petitioners herein were directed to forthwith release full pension, including all the arrears, payable to the 1<sup>st</sup> respondent herein. Respondent No.1 retired from service in the year 1996 and the punishment was imposed against him in the year 1998 and, by now, a decade has elapsed.

The Tribunal has given cogent and convincing reasons for allowing the OA and setting aside the impugned orders therein. We do not find any infirmity in the order passed by the tribunal. The Writ Petition fails and is liable to be dismissed."

3) Keeping in view of the orders of Hon'ble APAT as confirmed by the Hon'ble High Court, Government have decided to implement the orders of APAT in OA No.3547/2002 dated 31.03.2006.

4) Accordingly, Government hereby cancel the orders issued in G.O.Ms.No.88, Transport, Roads & Buildings (Vig.I.2) Department, dated 25.04.1998 imposing punishment of 40% cut in pension against Sri Md.Haneef, Superintending Engineer (R&B) now retired

5) The Engineer-in-Chief (R&B) Admn., shall take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.T.CHATTERJEE  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
Sri Md.Haneef, SE (R&B) retired.  
(Through ENC (R&B), Admn., Hyderabad.  
The Engineer-in-Chief (R&B) Admn., Hyderabad.  
Copy to  
The Account General (Pension.I), AP, Hyderabad.  
The Govt.Pleader for Ser-II, High Court of Andhra Pradesh  
(in W.P.No15214/2007)  
The Govt. Pleader for TR&B, Anadhra Predesh Administration Tribunal  
(in OA.No.3547/2002)  
Sf/Sc

//FORWARDED :: BY ORDER//

SECTION OFFICER